

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 845 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DALPATBHAI CHHIBABHAI PATEL

Versus

JAGMOHANBHAI N SONI

Appearance:

MR PK JANI for Petitioners

MRS KETTY A MEHTA for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 12/01/98

ORAL JUDGEMENT

It is not in dispute that petitioner No. 1-original defendant and respondent No. 1-original plaintiff are residing in U.S.A. and Canada respectively. The suit premises consist of block situated in Navsari town. The block consists of a room and kitchen on the ground floor and two rooms on the first floor. Both were tenants of Kasturben Chhotubhai. The suit premises were purchased by the petitioner No. 1

from Kasturben. The notice of attornment was also given to the defendant No. 1. The plaintiff filed suit for eviction on the ground that the petitioner tenant has acquired suitable residential building in Gandhinagar Society at Navsari and secondly that he has sub-let the premises to petitioner No. 2 (hereinafter referred to as defendant No. 2). He is husband of niece of defendant No. 1. The appellate court found that Ramaben being niece of defendant No. 1 cannot be said to be near relative of defendant No. 1. There is also nothing to show that she is dependent on defendant No. 1. The said finding is arrived at on the basis of oral and documentary evidence and also on settled position of law. The impugned judgement calls for no interference by this court in exercise of power under Section 29(2) of the Bombay Rent Act. The Revision Application is accordingly rejected. Rule is discharged. Interim relief is vacated.

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